THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITON NO. 9452 OF 2006

DATED: 28-04-2006

BETWEEN:

L. Maniklal, S/o. Ramanath … Petitioner

And

The Municipal Corporation of

Hyderabad, represented by

its Commissioner …Respondent

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITON NO. 9452 OF 2006

ORDER:

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Petitioner filed the present writ petition seeking to declare the action of the respondent in proposing to demolish the shop of the petitioner bearing No. 1-9-669/A/16, Vidyanagar, Hyderabad for the purpose of road widening without any notification, without payment of any compensation and without initiating any action under provisions of Sec.146 and 147 of the Hyderabad Municipal Corporation Act, 1955 or under the provisions of the Land Acquisition Act as illegal, arbitrary and violative of principles of natural justice.

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondent and perused the material available on record.

It is stated that the petitioner is the tenant in the mulgi bearing No.1-9-669/A/16,

Vidyanagar, Hyderabad and the said mulgi was taken on lease by the father of the petitioner and he was doing fair price shop business in the said premises.

It is stated that while the matter stood thus, the respondent has made markings on the shop of the petitioner for the purpose of road widening, but the other shops beside the shop of the petitioner were not marked and notified for road widening.

The main grievance of the petitioner is that the respondent corporation has not issued any notice before deciding to demolish the said building and the authorities of the respondent corporation are trying to demolish the shop of the petitioner for the purpose of widening the road without acquiring the property as contemplated under Chapter V of Hyderabad Municipal Corporation Act (for short 'the Act') or under Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondent to acquire the same either by way of initiating Land Acquisition proceedings or by following due procedure prescribed under law.

Having regard to the facts and circumstances of the case, the respondent corporation is directed not to demolish the structures or take away any portion of the property of the petitioner without following due process of law either under Sections 146 or 147 of the Act by private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

With the above direction, the writ petition is disposed of at the stage of admission. No order as to costs.

V. ESWARAIAH, J.

Dated: 28-04-2006

Note:

Issue C.C. by tomorrow.

(B/O)

RNS